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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,533	10/06/2003	Ronald L. Bauer	10807.0151.NPUS00	2532
26720	7590	01/12/2005	EXAMINER	
LOCKE LIDDELL & SAPP LLP ATTN. DOCKETING 600 TRAVIS #3400 HOUSTON, TX 77002				KHAIRA, NAVNEET K
ART UNIT		PAPER NUMBER		
		3754		

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,533	<b>Applicant(s)</b> BAUER, RONALD L.
	<b>Examiner</b> Navneet Sonia Khaira	<b>Art Unit</b> 3754

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. .

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 January 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-10, 12-21, 23, 24 and 26-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10 and 12-21, 23, 24, 26-29 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 11, 22 and 25 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species and of the claimed invention:

Species 1 – Figures 4 & 6

Species 2 – Figures 5 & 7

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Mark L. Gleason on December 29, 2004 a provisional election was made without traverse to prosecute the invention of Species 2 - figures 5 & 7, claims 1-10, 12-21,23,24,26-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11, 22, and 25 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Election was made without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10,12-21,23,24, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by McNabb (US 5,487,493).

Referring to claims 1 and 2, McNabb discloses a liquid dispensing system, comprising a valve (14) having an inlet for receiving liquid, an outlet and an actuator, a spout (18) in fluid communication with the valve (14) outlet, a lever (20) connected to the actuator, the lever (20) having a closed position in which the valve (14) is closed, and an open position in which the valve (14) is open to allow liquid to be dispensed from the spout (18); a locking member (22) defining a notch (30), the locking member (22) being positionable in a locked position (fig 2) in which the lever (20) seats in the notch (30) to prevent moving the lever (20) from the closed position (Fig 2) to the open position (Fig 1) ; and the locking member (22) being movable from the locked position (Fig 2) to an unlocked position (fig1) in which the lever (20) is not seated in the notch (30), allowing movement of the lever from the closed position to the open position (Fig

5). The locking member (22) is rotatable between the locked (Fig 2) and unlocked (Fig 1) positions.

Referring to claims 3, 4, 5, 6, 7 and 8, McNabb further discloses the locking member (22) that is rotatable (Fig 1) about the spout (16). McNabb also shows the locking member (22) defined on a longitudinal axis, and wherein the spout (16) opening is generally centered on the longitudinal axis (Fig 2). The locking member (22) defines a longitudinal axis, and wherein the spout (16) and the lever (20) are both generally centered on the longitudinal axis when the locking member (22) is in the locked position (Fig 2). The notch is shaped such that movement of the lever (20) from the open position towards the closed position (Fig 5) causes the locking member (22) to move to the locked position (Fig 2). The valve actuator is normally closed (Fig 1).

Referring to claim 9, McNabb further discloses the notch (30) includes the lever (20) seating in the radiused portion (30) when the locking member (22) is in the locked position (Fig 2). A stop portion (inner end of 30) extending from the radiused portion (30) to an outer edge (29) of the locking member (22), the stop portion (inner end of 30) of the notch (30) engaging the lever (20, Fig 2) when it is moved from the open position (Fig 1) to the closed position (Fig 2).

Referring to claim 12, the lever (20) is pivotable between the closed and open positions (Fig 5).

Referring to claim 13, the lever (20) has a first end connected to the valve actuator (47) and a second end (20a) opposite the first, wherein the second end (20a) of the lever (20) is located farther away from the spout (18) when the lever (20) is in the open position (Fig 1) than when the lever is in the closed position (Fig 2).

Referring to claims 14, McNabb discloses the apparatus is used to dispense beverages, in order to do so, the liquid dispensing system has to comprise of a second valve and a second lever. Anyone of ordinary skill in the art would know not to dispense different beverages of different flavors from a single valve, instead the system would require multiple valves and levers to control flow of each beverage.

Referring to claim 16, McNabb further discloses a locking member (22) having first and second ends (Fig 1), the first end can be adapted to be connected to a faucet, the second end (Fig 1) is movable; the second end of the locking member (22) defining a notch (30) therein for receiving a dispensing lever (20) of the faucet, the locking member (22) defining a locked position (Fig 2) in which the notch (30) captures the dispensing lever (20) and the notch (30) being shaped such that the locking member (22) is movable from the locked position (Fig 1) to release the dispensing lever (20).

Referring to claims 23, and 24 McNabb further discloses a locking member (22) defining a generally cylindrical bore (40), the locking member (22) defining a notch (30) including a radiused portion (Fig 1), and the notch (30) including a stop surface extending from the radiused portion to an outer edge of the locking member (Fig 1). The bore (40) and the radiused portion of the notch (30) are generally centered on a longitudinal axis of the locking member (22, Fig 1).

Referring to claims 26 and 27, McNabb further discloses a liquid dispensing system, comprising a valve (16) having an inlet for receiving liquid, an outlet, and an actuator, a spout (18) in fluid communication with a lever (20) connected to the actuator (47), the lever (20) having a closed position (Fig 5) in which the valve (16) is closed, and an open position (Fig 5) in which the valve (16) is open to allow liquid to be dispensed from the spout (18); and first means for locking the lever (20) in the closed position (Fig 2) and selectively unlocking the lever (20). The first means includes second means for automatically locking the lever in response to movement of the lever from the open position (Fig 1) to the closed position (Fig 2).

Referring to claims 28, McNabb further discloses a method of locking a faucet (18) dispenser lever in a closed position (Fig 2), rotatably attaching a locking member (22) to the faucet (18) moving the dispenser lever (20) from an open position (Fig 1) to a closed position (Fig 2) such that the dispenser lever (20) engages a notch (30) defined in the locking member (22).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNabb (US 5,487,493) in view Ecklund (US 5,971,354).

Referring to claim 15, McNabb shows a liquid dispensing system substantially according to claim 15, but does not show a second valve inlet is connected to a source of hot water according to the claim. Ecklund teaches to provide a second valve inlet connected to a source of hot water in order to have faucets that dispense water at different temperatures.

It would have been obvious to one having ordinary skill in the art to have included the second valve inlet connected to a source of hot water of Ecklund in the dispensing system of McNabb in order to have faucets that dispense water at different temperatures as taught by Ecklund.

Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNabb (US 5,487,493) in view Grunewald (US 6,648,178).

Referring to claim 17, McNabb shows a locking member used on a dispensing system substantially according to claim 17, but does not show the first end of the locking member defines a spout opening extending therethrough for receiving a liquid dispensing spout of the faucet such that the locking member is rotatable about the spout inserted through the opening according to the claim. Grunewald teaches to provide a the first end of the locking member defines a spout opening for receiving a liquid dispensing spout of the faucet such that the locking member is rotatable about the spout in order to keep a portion of the spout to be locked.

It would have been obvious to one having ordinary skill in the art to have included the locking member defines a spout opening extending therethrough for receiving a liquid dispensing spout of the faucet such that the locking member is rotatable about the spout inserted through the opening of Grunewald in the locking member used on a dispensing system of McNabb in order to keep a portion of the spout to be locked as taught by Grunewald.

Referring to claim 18, McNabb further discloses the locking member (22) defines a longitudinal axis, and wherein the spout opening (end of 18) is generally centered on the longitudinal axis (Fig 1).

Referring to claim 19, McNabb further discloses the notch (30) is shaped such that movement of the lever (20) from an open position (Fig 5) towards a closed position (Fig 5) causes the locking member (22) to move to the locked position (Fig 2).

Referring to claim 20, McNabb further discloses the notch (30) includes a radiused portion generally centered (Fig 2) on a longitudinal axis of the locking member (22), the lever (20) seating in the radiused portion when the locking member (22) is in the locked position (Fig 2).

Referring to claim 21, McNabb further discloses the notch (30) includes a radiused portion generally centered (Fig 2) on a longitudinal axis of the locking member (22) and a stop portion (inner end of 30) extending from the radiused portion to an outer edge (Fig 1) of the locking member (22) for engaging the lever (20) to position the locking member (22) in the locked position (Fig 2).

Referring to claims 29, McNabb reference discloses a faucet (18) includes a spout (16) for dispensing liquid in response to moving the dispenser to the open position (Fig 5), and wherein rotatably attaching the locking member (22) substantially according to claim 29, but does not show the locking member such that the locking member is rotatable about the spout according to the claim. Grunewald teaches to provide a locking member that is rotatable about the spout in order to keep a portion of the nozzle to be locked (Col 4, lines 52-55).

It would have been obvious to one having ordinary skill in the art to have included the locking member that is rotatable about the spout of Grunewald in the locking device of McNabb in order to keep a portion of the nozzle to be locked as taught by Grunewald.

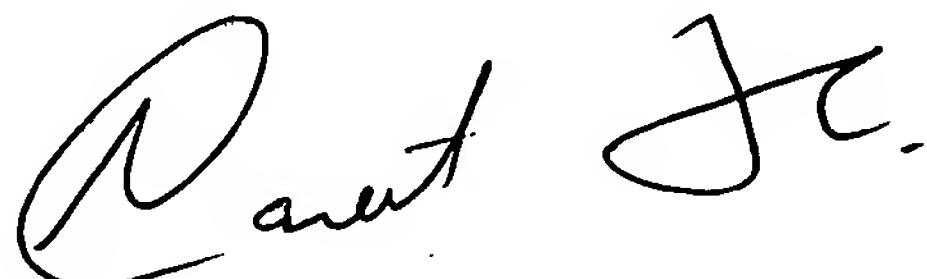
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet Sonia Khaira whose telephone number is 571-272-7142. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7142.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NK



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